

1     that's not where he -- because there, again, that required  
2     consistency.

3           Q     Again, the next sentence which is right near the  
4     bottom of your testimony on page 9, you say, "He," referring  
5     to Michael Rice, "enjoyed making certain that the stations  
6     had good receptions and quality sound."

7                     Again, by "quality sound," you are talking about  
8     the technical aspects of the signal, not the content of the  
9     signal?

10          A     That's correct.

11          Q     Let me turn your attention to page 10 of your  
12     statement. There you said that you had already assumed much  
13     of the responsibility for overseeing business operations,  
14     including the station sales and elections.

15                     After Michael Rice was released from the hospital,  
16     did you provide him with reports on a regular basis showing  
17     what the sales of each of the stations were?

18          A     He was provided quarterly reports, the same as any  
19     other shareholders were.

20                     JUDGE STEINBERG: This is after his  
21     hospitalization?

22                     THE WITNESS: Yes.

23                     BY MR. ZAUNER:

24          Q     Were these same quarterly reports made available  
25     to him before his operation -- before his commitment to the

1 hospital?

2 A Yes.

3 And there, again, just as they were to the other  
4 shareholders.

5 JUDGE STEINBERG: Well, there aren't any other  
6 shareholders in the two Contemporary stations; is that true?

7 THE WITNESS: Well, at one point in time there  
8 was, yes.

9 JUDGE STEINBERG: Okay, but when did he get 100  
10 percent? Oh, way back? Okay, is that correct?

11 THE WITNESS: Yes, but when I first went to work  
12 there were others.

13 BY MR. ZAUNER:

14 Q When you say "way back," you mean prior to 1991?

15 A Yes, sir.

16 Q And at least since 1991, and all the times that we  
17 are talking here Michael Rice was the sole owner of  
18 Contemporary Media, Inc. and Contemporary Broadcasting,  
19 Inc.?

20 A That's correct.

21 Q You also say, paragraph 24, that Mr. Rice  
22 previously had acted informally as an in-house programming  
23 consultant to the stations' program directors.

24 When was this that he had performed that function?

25 A Oh, I would say probably in the eighties.

1 JUDGE STEINBERG: In the early, mid, late?

2 THE WITNESS: Well, probably up to about the --  
3 when I first came to work there, and probably until the mid  
4 eighties.

5 BY MR. ZAUNER:

6 Q As the acting in-house program consultant, was he  
7 involved in the hiring of program directors at the stations?

8 A Not actually in the interviewing or hiring of the  
9 program directors, no.

10 Q How about hiring or firing of announcers?

11 A No.

12 Q How about the firing of program directors?

13 A Maybe in the early eighties, but not after that.

14 Q Well, who was responsible for these functions, the  
15 hiring and firing of PDs, program directors, and the hiring  
16 and firing of announcers?

17 A Well, if they were announcers, it was probably the  
18 program director. If it was the program director, it was  
19 normally the manager.

20 Q The manager of the specific station?

21 A That is correct.

22 Q Well, did Mike Rice ever come to you and say, "I  
23 was listening to the station and, boy, that announcer is  
24 terrible, we have to get rid of him"?

25 A Oh, he might have said an announcer sounds

1 terrible. And then he would say, "And I listened to station  
2 so and so," which was not one of our facilities, and he  
3 would make those same general comments.

4 Q Did he ever instruct you to fire an announcer?

5 A Not that I recall.

6 Q In all the time that you have been with the  
7 stations, you have never --

8 A No, he may have made a comment about the quality  
9 of an announcer, but, you know, as to --

10 Q And did he ever instruct you to fire a program  
11 director?

12 A No.

13 Q The whole time --

14 A Not that I recall, no.

15 Q All the time that you have worked for him he has  
16 never made that demand on you?

17 A Right.

18 Q Has he ever instructed you to fire a station  
19 general manager?

20 A No, he never instructed me to. No.

21 Q Did he ever suggest that you do so?

22 A No.

23 JUDGE STEINBERG: Let me just ask you. If Mr.  
24 Rice made a comment, "Gee, this announcer on one of our  
25 stations is really terrible," did you take that as a

1 direction to get rid of that person?

2 THE WITNESS: No.

3 JUDGE STEINBERG: In other words, that's the way  
4 some people operate. I suggest this guy is terrible, and in  
5 parentheses that means you better get rid of this guy. But  
6 that's not the way it happened?

7 THE WITNESS: My comment probably would have been,  
8 Judge Steinberg, to Mike was, "Well, you get what you pay  
9 for."

10 JUDGE STEINBERG: That goes in the \$40 check.

11 (Laughter.)

12 THE WITNESS: Well, you know, I'm a pretty  
13 straightforward person.

14 JUDGE STEINBERG: Somehow I can tell.

15 (Laughter.)

16 BY MR. ZAUNER:

17 Q And you say eventually in April 1995, that you  
18 hired the services of an outside programming consultant, one  
19 David Lange.

20 Did you consult with Michael Rice --

21 A No.

22 Q -- prior to hiring David Lange?

23 A No.

24 I actually used the services of Dave Lange prior  
25 to that time, but that is when we actually signed a contract

1 with him.

2 Q When did you begin using the services of David  
3 Lange?

4 A Oh, in the early part of '94.

5 Q Why did you begin using the services of David  
6 Lange?

7 A Well, because prior to that I had used individuals  
8 who kind of did, they were not really consultants per se.  
9 They were individuals in the industry who says, "Yeah, I am  
10 Rock John," and that kind of thing. But I felt like that  
11 really I needed someone, because I'm not a programmer, I  
12 needed someone that the managers of these particular type of  
13 stations needed who could give them the expertise that we  
14 needed to have a winning station.

15 Q Now, Mike Rice was -- let me withdraw that.

16 Again, when did you first begin using the services  
17 of say David Lange? Can you remember the month? Was it  
18 early '94?

19 A I would say probably --

20 Q Late '94?

21 A -- mid '94, but I used other individuals, like I  
22 said, prior to doing that, but they were not individuals who  
23 hung up the shingle to be consultants.

24 Q Do you recall when Michael Rice was incarcerated?

25 A Yes, September the 30th of '94.

1 Q Which was just around the time that you hired  
2 David Lange?

3 A No, it was prior to that that I had conversations  
4 with Dave Lange. And so had one of the general managers.

5 Q Had you hired David Lange because Michael Rice was  
6 no longer available to do consulting on the station's  
7 programming?

8 A No. I hired him because I wanted to have -- I  
9 hoped to have stations with number one ratings in the next  
10 book.

11 Q Let me call your attention to paragraph 25. You  
12 say that during Mr. Rice's 1991 hospitalization that you had  
13 no communications with him at all.

14 You had no letters, no telephone communications  
15 with him during this period of hospitalization?

16 A I had no direct communications with him

17 Q Did you have indirect communications with him?

18 A I guess.

19 Q And what was the nature of the indirect  
20 communication?

21 A His father.

22 Q Did his father give you any instructions that had  
23 been relayed through him to you --

24 A No.

25 Q -- about how to run the stations?

1 JUDGE STEINBERG: Were you allowed to visit him in  
2 the hospital if you wanted to?

3 THE WITNESS: I think there may have been a period  
4 of time that he was allowed visitors. But I never did go  
5 see him.

6 JUDGE STEINBERG: I just wondered if you had  
7 access to him, physical access in terms of visitors were  
8 expected.

9 THE WITNESS: Well, I know his father went to see  
10 him.

11 JUDGE STEINBERG: Okay. Was Mr. Rice married at  
12 that time?

13 THE WITNESS: No, no, Mr. Rice has -- Mr. and Mrs.  
14 Rice were married for 60 some years.

15 JUDGE STEINBERG: No, not Malcolm.

16 THE WITNESS: Oh.

17 JUDGE STEINBERG: Michael.

18 THE WITNESS: Michael has never been married, to  
19 my knowledge.

20 BY MR. ZAUNER:

21 Q During this period that Michael Rice was in the  
22 hospital, did his father, Malcolm Rice, participate at all  
23 in the management of the stations?

24 A No, not in the management of the stations. He  
25 came in and signed checks, more or less visited per se.



1           Q     Let me call your attention to page 11. You said,  
2     "However, given the circumstances of some pending criminal  
3     trial, I suggested that it would be in the best interest of  
4     the Licensees from both a public relations and from a  
5     regulatory standpoint that he remain completely uninvolved  
6     in the oversight and management of the Licensees operations  
7     until and unless she is exonerated."

8                     Why did you suggest this?

9           A     Because the involvement and the time that Mike was  
10    spending with his involvement in his legal case, and also  
11    with his mother being terminally ill at that time, you  
12    can't, you needed somebody there when business was going to  
13    be done. You can't run a business, my favorite term is "a  
14    little bit pregnant. You either are or you aren't." You  
15    have either got to be there or you aren't.

16                    And from that standpoint, as far as consistency of  
17    running the business, I felt that that was important. Also,  
18    for Mike mom's sale.

19           Q     You say "public relations reason."

20                    Was Michael Rice's arrest well known in the  
21    communities?

22           A     Oh, yes, and our competitors made it very well  
23    known.

24           Q     Was that true in all three communities?

25           A     Yes, it was.

1 Q You said your competitors made it well known.

2 How was that?

3 A Oh, their sales people took pictures. They took  
4 copies of articles that were in the newspaper and handed  
5 them out to advertisers, and carried it multiple times, made  
6 it their top news story on their stations when it was ten  
7 days old, and this type of thing.

8 Q And they did that in the Terre Haute market?

9 A Yes, they did.

10 Q They also did that in Huntsville and Columbia?

11 A We don't have a station in Huntsville. We had a  
12 competitor who you are familiar with who was in that area.

13 Q What about in Eldon?

14 A Yes.

15 Q They did that in Eldon too?

16 A Yes.

17 Q Also Cuba?

18 A Well, we don't have a station there in Cuba, but  
19 there was a lot of publicity by one of our competitors in  
20 there, and there is another station in Cuba, and that owner  
21 of that station was extremely upset because everyone thought  
22 that was the station.

23 Q You also indicate that you were concerned, or you  
24 made this suggestion because of a regulatory concern.

25 What was the regulatory concern? You actually

1 wrote from a regulatory standpoint you suggested that he do  
2 this.

3 A Well, because that was the information that we  
4 were making statements on, that he was not involved, so  
5 therefore he should not be involved.

6 Q By a "regulatory standpoint," were you referring  
7 to possible involved of the FCC? Is that what the  
8 regulatory standpoint reference in your testimony on pages  
9 11 refers to?

10 It's in the --

11 JUDGE STEINBERG: -- Fifth line.

12 BY MR. ZAUNER:

13 Q -- fifth line down.

14 A Yeah, I know.

15 I guess the answer would be yes.

16 Q Now, you indicated then in paragraph 26 that you  
17 decided that Mr. Rice could assist the stations' consulting  
18 engineers and chief engineers on technical projects.

19 Was this decision, again, in part based on  
20 communication you had with communications counsel?

21 A No

22 Q You made this decision independent of that?

23 A That's correct.

24 Q What was the basis of that decision?

25 A From an economic standpoint.

1           Mike was getting paid. Why not utilize his  
2 services for something.

3           Q     Did you communicate your decision to Michael Rice  
4 and told him, "I've decided to permit you to perform certain  
5 functions"?

6           A     Yeah. I told him, I said, "I think from the  
7 bottom line standpoint," I think the term I used with him,  
8 "Well, we might as well get some good out of you."

9           Q     Did you set any conditions of his working for the  
10 stations? Did he have to, for example, clear the projects  
11 with you --

12          A     Yes.

13          Q     -- so that you knew what it was that he was doing?

14          A     Yes.

15          Q     So any function that he performed he first told  
16 you about, and you approved of?

17          A     That's correct.

18          Q     Would this be true with regard to any traveling  
19 that he took on behalf of the stations too?

20          A     On behalf of the stations, yes.

21          Q     When he traveled with another employee of the  
22 station on behalf of the station, this would have been  
23 approved first by you?

24          A     Yes.

25          Q     Did you ever travel with Mike Rice to any of the

1 stations?

2 A Yes, I did.

3 Q And these would be business trips that you made  
4 with Mike Rice?

5 A Yes.

6 Q And how frequently would this occur?

7 A There was really no frequency. They would even be  
8 -- I mean, there might be a time, because I would visit the  
9 stations on at least a quarterly basis, sometimes more  
10 often, depending upon something that might be going on.  
11 Mike might be there, or be in that particular town, and I  
12 would come. So, I mean, sometimes we went together  
13 Sometimes we didn't.

14 Q What was the --

15 A And he might be there for some other reason other  
16 than the broadcast property.

17 Q Okay, and we are talking now about the post-April  
18 '91 period.

19 A Okay.

20 Q And your testimony about going with Michael Rice  
21 or meeting at the station would be true for that post-'91  
22 period?

23 A That is correct.

24 Q And you mentioned that you went to the stations on  
25 a quarterly basis.

1           What was the purpose of your going to the stations  
2 at least once each quarter?

3           A     Usually face-to-face with the managers on the  
4 evaluation of that quarter. And if we had done well, good,  
5 we were ahead. If not, what were we going to do to make it  
6 up next quarter.

7           Q     And when you say "when we were ahead," you are  
8 talking about --

9           A     From a bottom line standpoint.

10          Q     In revenue --

11          A     That's correct.

12          Q     -- versus cost?

13          A     Um-hmm.

14          Q     Did Mike Rice, when he was there, join in these  
15 meetings?

16          A     No.

17          Q     Did you discuss what you were going to discuss to  
18 the manager with Mike Rice before going into the meetings?

19          A     Maybe in -- prior to 1990, may have, yes.

20                Generally, when I travel with Mike, your  
21 conversations were about radio in general than anything  
22 specific. Okay, who does that tower belong to over there?  
23 Oh, it belongs to XYZ. Built in such and such year. He's  
24 got 14 tenants on it; you know, this type of thing.

25          Q     As you drove along --

1           A     That's correct.

2           Q     -- did you listen to your own stations?

3           A     Yes. And Mike could identify every station that  
4 was on the dial as you graveled from place A to place B, and  
5 who owned it, and how long they've been the station, and how  
6 many times the call letters had been changed, and he was a  
7 very -- he's a student of the radio industry, phenomenal.

8           Q     Did you also listen to your own stations --

9           A     Yes.

10          Q     -- as you traveled along?

11          A     Yes.

12          Q     Did Mike Rice ever make any or give you any orders  
13 with regard to anything that he heard on the air, that he  
14 wanted an individual fired, or that he wanted a change in  
15 programming?

16          A     Oh, not to say that an individual was fired.  
17 Prior to 1991, if we went somewhere, he may have made a  
18 comment about, "Oh, man, this guys sounds terrible." And  
19 like I said, I may have made the comment like I did before,  
20 "Well, you get what you pay for. You always nobody listens  
21 this time of day," or something of that nature.

22                 Or if it was another station I might say, "Well,  
23 look who owns it. No wonder." You know, something of that  
24 nature.

25          Q     But it is your testimony, and it seems pretty

1     stated, that Mike Rice had no involvement in personnel and  
2     programming decisions of the stations subsequent to April of  
3     '91?

4             A     Right. After 1991, no.

5             JUDGE STEINBERG: Wonder if you can wind up an  
6     area we can take a break for lunch. I don't want to -- if  
7     you're going to start a new area, we will take a break for  
8     lunch.

9             MR. ZAUNER: I'm just about completed my  
10    examination directly related to Exhibit 1. I'm almost  
11    through.

12            JUDGE STEINBERG: Okay, why don't you finish that,  
13    and then --

14            MR. ZAUNER: And then we can take a break.

15            BY MR. ZAUNER:

16            Q     In September 30 -- on September 30, 1994, Michael  
17    Rice was incarcerated, and since that time you indicate that  
18    you've communicated with him from time to time.

19                   Does he give you any instructions at this point  
20    with regard to the station's programming?

21            A     No.

22            Q     With regard to the station's musical format?

23            A     He doesn't give me instructions. He may make  
24    statements, but they are not instructions.

25            Q     Does he make suggestions?



1           A     Not regarding programming, no.

2           Q     What about the engineering or technical projects,  
3 do you keep him up to date on what's going on in that  
4 regard?

5           A     No, I don't keep him up to date. I may mention to  
6 him I talked to this consulting engineer or that consulting  
7 engineer about so and so pieces of equipment. And he might  
8 say, "Well, I think so and so is better." But if the other  
9 two of them said no, well, it was a resource from that  
10 standpoint.

11          Q     Does Malcolm Rice become involved -- has Malcolm  
12 Rice become involved in any of the decisions concerning the  
13 station since Michael Rice was incarcerated?

14          A     No, not really.

15          Q     You are the one that makes the business decisions  
16 and other decisions of the stations?

17          A     Right. Right.

18          Q     Do you still send Michael Rice the quarterly  
19 reports?

20          A     Yes.

21          Q     If you have a question of major capital  
22 expenditure, do you discuss it with Mike Rice now after he's  
23 been incarcerated?

24          A     Only from the standpoint I might ask what's your  
25 recommendation on, or do you know anything about XYZ

1 equipment. That would be the only thing. The same as I  
2 would do with maybe calling four or five other engineering  
3 or consulting engineers, ask the same questions, because I'm  
4 not an engineer.

5 Q Well, you know at some point he's going to be  
6 released from jail, and if the stations are still operating  
7 and you are still there as chief operating officer, Mike  
8 Rice would once again have control; is that not correct?

9 A No.

10 Q Once Michael Rice is released from prison, he's  
11 100 percent owner of the companies, do you anticipate that  
12 he would assume control of the station?

13 A No.

14 MR. ZAUNER: Your Honor, would this be a good time  
15 for a break?

16 JUDGE STEINBERG: Yes. Let's go off the record.

17 (Discussion off the record.)

18 JUDGE STEINBERG: Okay, we will take a lunch break  
19 now and we will be back at 1:30. Go off the record again.

20 (Whereupon, at 12:32 p.m., the hearing was  
21 recessed, to resume at 1:30 p.m., this same day, Tuesday,  
22 April 9, 1996.)

23 //

24 //

25 //

A F T E R N O O N   S E S S I O N

(1:34 p.m.)

JUDGE STEINBERG: Okay, back on the record

Whereupon,

JANET COX

having been previously duly sworn, was recalled as a witness herein, and was examined and testified further as follows:

CROSS-EXAMINATION (Resumed)

BY MR. ZAUNER:

Q Mrs. Cox, am I correct that it's your testimony that since April of 1991 Michael Rice has not been involved in the hiring and firing of any of the station's general managers?

A No, that's not correct.

Q In fact, was Michael Rice involved in the hiring or firing of a general manager?

A He was not involved. He was a witness at a termination of a general manager.

Q Which general manager was that?

A John Rhea.

Q And what happened at that time with John Rhea? Let me let it before we do that.

Would you identify John Rhea for the record?

A He was the general manager of the broadcast facilities in Terre Haute, Indiana.

1 Q And was he then the general manager for both  
2 WBOW(AM) and WBFX(AM) and WZZQ(FM)?

3 A That's correct.

4 Q When had he been hired?

5 A I believe it was in December of '90.

6 Q Demeter of '91?

7 A No, December of '90. I hired him.

8 Q '90?

9 A Yes.

10 Q And who had made the decision to hire John Rhea?

11 A I did.

12 Q Did you discuss with Michael Rice John Rhea's  
13 hiring before he was hired?

14 A I told him that's who I was making the offer to as  
15 the manager of the facility.

16 Q Before you hired him?

17 A No, I had already made the offer to John Rhea.

18 Q Did you tell Michael Rice anything about John  
19 Rhea, his background, his experience?

20 A I probably did, but exactly, I don't know.

21 Q When he was hired, this was in December of '90?  
22 This was before Michael Rice had gone to the hospital?

23 A That's correct.

24 Q When Michael Rice was incarcerated -- I'm sorry,  
25 let me withdraw that.

1                   When the decision was made to insulate Michael  
2     Rice from station activities, was John Rhea informed of that  
3     decision?

4           A     Yes.

5           Q     And how was he informed of that decision?

6           A     And employees meeting.

7           Q     And this is one of those meetings that you  
8     conducted?

9           A     That's correct.

10          Q     And you remember specifically John Rhea was  
11     present?

12          A     Yes.

13          Q     Now, you said there came a time when Mr. Rhea was  
14     fired; is that correct?

15          A     Yes.

16          Q     And why was he fired?

17          A     Because the station was not performing to the  
18     expectations that I thought he was able to do according to  
19     his qualifications.

20          Q     Was this in the sales areas?

21          A     Well, it had to do with the revenue of the  
22     station, and also some personnel problems.

23          Q     Who made the decision to fire --

24          A     I did.

25          Q     -- Mr. Rhea?

1           And what was the -- do you remember when the  
2   decision was made to fire Mr. Rhea, what year?

3           A     Probably in October of '91.

4           Q     October of 1991?

5           A     Um-hmm.

6           Q     This would be the period of time Mr. Rice was in  
7   the hospital --

8           A     That's right.

9           Q     -- or had just gotten out?

10          A     Right.

11          Q     You made the decision when Mr. Rice was in the  
12   hospital --

13          A     That's correct.

14          Q     -- to fire Mr. Rhea?

15          A     That's correct.

16          Q     When Mr. Rice got out of the hospital, did you  
17   inform Mr. Rice of that decision?

18          A     No, because it was -- I think I probably only, I'm  
19   trying to remember four years back. When I was going to  
20   physically terminate John Rhea, I had always been the  
21   recommendation that there always be two individuals present  
22   at the time of a termination of an employee, especially  
23   someone in management position, and someone who was not felt  
24   that they -- if anything came up later on, they wouldn't be  
25   in jeopardy of saying, "Oh, yeah, this happened" because

1     it's job type situation.

2             Do you follow what I am saying?

3     Q     You wanted a witness for the fact?

4     A     Right. Right.

5     Q     Did you go to Terra Haute to fire Mr. Rhea?

6     A     Yes, I did.

7     Q     How did you travel there?

8     A     By car.

9     Q     Who drove?

10    A     I don't know. I don't remember if I did or if  
11   Mike Rice did.

12    Q     Was there a third party with you?

13    A     No.

14    Q     Paul Hanks was not with you on that trip?

15    A     No.

16    Q     Now, where did this trip originate from?

17    A     St. Peters.

18    Q     I'm sorry. I missed it.

19    A     St Peters.

20    Q     And you drove from St. Peters to Terre Haute?

21    A     That's correct.

22             JUDGE STEINBERG: St. Peters, what state?

23             THE WITNESS: Missouri.

24             JUDGE STEINBERG: How long a trip is it?

25             THE WITNESS: Three hours.

1 JUDGE STEINBERG: Three hours?

2 THE WITNESS: Approximately three hours.

3 JUDGE STEINBERG: About 180 miles?

4 THE WITNESS: About that, about 180, 185.

5 BY MR. ZAUNER:

6 Q And you and Mike Rice drove together?

7 A Yes.

8 Q Did you discuss the firing with Michael Rice  
9 during this drive?

10 A I don't know. I might have. You know, probably  
11 talked more about like I said earlier. You know, this radio  
12 tower, this radio station, da-da-dah; that type thing.

13 Q Was the principal purpose of you going to Terre  
14 Haute to fire Mr. Rhea?

15 A That's correct.

16 Q What was Mr. Rice's purpose of going to Terra  
17 Haute?

18 A To be a witness.

19 Q So then he did know before the trip began that you  
20 were going to fire Mr. Rhea when you got there?

21 A Yes.

22 Q And he was aware of your decision to do so?

23 A Yes.

24 Q Did he concur in that decision?

25 A I guess he did.



1 Q Did you discuss the reasons why with him?

2 A I probably stated, you know, I think the bottom  
3 line is not happening, we've got personnel problems. His  
4 references lied when I called them.

5 Q Had you previously made the trip to -- do you  
6 recall -- had you made previous trips to the station with  
7 Mike Rice for the purpose of firing employees?

8 A I don't think so, not to Terra Haute.

9 Q Do you remember an employee by the name of Mark  
10 Bianchi? He was also perhaps known as Mark Savage.

11 A He was a program director. I can remember that.

12 Q That's correct.

13 Do you recall whether he was fired?

14 A No. I mean, I don't without looking at personnel  
15 record. I don't know.

16 Q Isn't it a fact that that Mike Rice gave the order  
17 to fire Bianchi?

18 A I don't remember it, because like I said, I'm  
19 having a hard time remembering who this individual is.

20 Q Well, you said you had an office at WZZQ, a  
21 corporate office at the station; is that correct?

22 A Right. Well, we had one room in the building.

23 Q Do you recall going to WZZQ and meeting with Mike  
24 Rice and John Rhea and discussion Bianchi's firing?

25 A No.